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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,875	10/29/2003	Hirotooshi Ariga	244665US3	4118
22850	7590	01/31/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			ENGLE, PATRICIA LYNN	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,875

Applicant(s)

ARIGA ET AL.

Examiner

Patricia L Engle

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 17-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-29 is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-14 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 14 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawa (JP 10-250640).

Regarding claim 1, Sawa discloses a spoiler (2) configured to be mounted on a bumper (1) of a vehicle, comprising: a spoiler main body section (2) configured to be disposed to orient toward a roadbed on which the vehicle travels; a plurality of mount sections (24) each formed on a back of the spoiler main body section (2) integrally therewith to protrude rearward of the vehicle; and a plurality of fixing sections (241 or 3) integrally formed on at least one of an upper side and a lower side of the plurality of mount sections discontinuously (Fig. 2) in a longitudinal direction of the spoiler at certain intervals, the plurality of fixing sections (241) each protruding at least one of upward and downward from a surface of the plurality of mount sections (24) from a position between the spoiler main body section and a rear end of each of the plurality of mount sections (Fig. 2).

Regarding claim 2, Sawa discloses the spoiler according to claim 1, wherein the plurality of fixing sections (241) are capable of being fixed in the vicinities of a plurality of mount holes (13) formed in the bumper.

Art Unit: 3612

Regarding claim 3, Sawa discloses the spoiler according to claim 1, wherein the plurality of fixing sections (241) have substantially the same cross-section (Fig. 2) in a longitudinal direction of the spoiler main body section (2).

Regarding claim 4, Sawa discloses the spoiler according to claim 1, further comprising a fitting base section (242) extending along the spoiler main body section, wherein at least one mounting section of the plurality of mount sections (241) is integrally formed with the fitting base section (242).

Regarding claim 5, Sawa discloses the spoiler according to claim 1, wherein at least one mount section (24) the plurality of mount sections (24) includes a fastening member mount portion (244) for attaching a fastening member (3).

Regarding claim 6, Sawa discloses the spoiler according to claim 5, wherein the fastening member mount portion (244) is formed at a position where the fastening member (3) attached to the fastening member mount portion (244) does not interfere (Fig. 2B) with the fixing section (241).

Regarding claim 7, Sawa discloses the spoiler according to claim 5, wherein the fastening member mount portion (244) is a fastening member insert hole (244) into which the fastening member (3) can be inserted.

Regarding claim 14, Sawa discloses the spoiler according to claim 1, wherein the plurality of fixing sections (241, 3) are formed on one of upper and lower sides (Fig. 2B) of the respective plurality of mount sections (24); and, when the spoiler (2) is attached to the bumper (1), the plurality of fixing sections (3) are elastic in a direction moving closer to the plurality of

Art Unit: 3612

mount sections (24), thereby enabling the plurality of insert/mount sections to be pressed against corresponding areas on the bumper.

Regarding claim 18, although Sawa does not disclose that the mount holes (13) are of a greater dimension than the mount sections of the spoiler, the Examiner takes Official Notice that it would have been inherent to do so to accommodate manufacturing tolerances.

Regarding claim 19, Sawa discloses the spoiler according to Claim 1, wherein the plurality of fixing sections (241) are integrally formed on the upper side of the plurality of mount sections, and each of the plurality of fixing sections (241) protrudes upward from the surface of the plurality of mount sections.

Regarding claim 20, Sawa discloses the spoiler according to Claim 1, wherein the plurality of fixing sections (3) are integrally formed on the lower side of the plurality of mount sections, and each of the plurality of fixing sections (3) protrudes downward from the surface of the plurality of mount sections.

Regarding claim 21, Sawa discloses the bumper structure according to claim 17, wherein the plurality of fixing sections (241) have substantially the same cross-section in a longitudinal direction of the spoiler main body section.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3612

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa in view of Ito et al. (US Patent 6,644,700).

Sawa et al. disclose the spoiler according to claim 1. Sawa et al. do not disclose the material of the spoiler body or the mount sections or the material properties of the spoiler body or mount sections.

Regarding claim 11, Ito et al. disclose a bumper spoiler wherein the spoiler main body section (10) is formed from soft, flexible material (column 4, lines 46-49) which does not undergo any deformation excess of a limit when subjected to air resistance developing during the course of travel of a vehicle; the plurality of mount sections (23) are formed from material which is hard and higher in rigidity than a material of the spoiler main body section (column 4, lines 52-55); and the back of the spoiler main body section and extremity base portions of the plurality of insert/mount sections are joined integrally with each other (column 6, lines 64-66).

Regarding claim 12, Ito et al. disclose a bumper spoiler wherein the spoiler main body section (10) and the mount sections (23) are made of at least one of rubber and a thermoplastic elastomer material (column 4, lines 46-57).

Art Unit: 3612

Regarding claim 13, Ito et al. disclose a bumper spoiler further comprising: a core material (25) made of a material higher in rigidity and expansion-and-contraction resistance than the spoiler main body section and the insert/mount sections (column 6, lines 24-27), the core material (25) embedded in the longitudinal direction in an area on the back of the spoiler main body section where the plurality of insert/mount sections are to be joined (Fig. 3).

Sawa and Ito et al. are analogous art because they are from the same field of endeavor, i.e., bumper spoilers.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the materials with the properties of Ito et al.

The motivation would have been to provide a flexible spoiler with rigid mounting sections which would allow the spoiler to follow the contours of the bumper while being rigidly held in place.

Therefore, it would have been obvious to combine Ito et al. with Sawa to obtain the invention as specified in claims 11-13.

Allowable Subject Matter

6. Claims 22-29 are allowed.

7. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3612

Response to Arguments

8. Applicant's arguments with respect to claims 1-14 and 17-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777. The examiner can normally be reached on Monday - Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle
Primary Examiner
Art Unit 3612

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January 24, 2005